

Colorado Revised Statutes  
Volunteer service act

13-21-115.5. Volunteer service act - immunity - exception for operation of motor vehicles.

Statute text

(1) This section shall be known and may be cited as the "Volunteer Service Act".

(2) The general assembly finds and declares that:

(a) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;

(b) The contributions of programs, activities, and services to communities is diminished and worthwhile programs, activities, and services are deterred by the unwillingness of volunteers to serve as volunteers of nonprofit public and private organizations;

(c) It is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give time and energy without compensation as a volunteer in service to the community without fear of personal liability for acts undertaken in good faith absent willful and wanton conduct on the part of the volunteer; and

(d) The provisions of this section are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

(3) As used in this section, unless the context otherwise requires:

(a) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation.

(b) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended, and any homeowners association, as defined in and which is exempt from taxation pursuant to section 528 of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 528.

(c) "Volunteer" means a person performing services for a nonprofit organization, a

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nonprofit corporation, or a hospital without compensation, other than reimbursement for actual expenses incurred. The term excludes a volunteer serving as a director, officer, or trustee who shall be protected from civil liability in accordance with the provisions of sections 13-21-116 and 13-21-115.7. The term includes a licensed physician performing medical services or providing medical care or treatment as a volunteer for a nonprofit organization, a nonprofit corporation, or a hospital. The nonprofit organization, nonprofit corporation, or hospital for which the physician volunteers shall annually verify that the physician holds an unrestricted Colorado license to practice medicine.

(4) (a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(I) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, or a hospital;

(II) The damage or injury was not caused by willful and wanton misconduct by such volunteer; and

(III) The damage or injury was not caused by gross negligence or by willful and wanton misconduct by such volunteer if such volunteer is a licensed physician, and the physician's volunteer status was declared before the medical procedure occurred and the patient receiving the volunteered medical care, or the patient's representative, agreed in writing beforehand to accept such volunteered care after disclosure that the patient's right to sue the volunteer physician will be subject to the limitations of this section.

(b) Nothing in this section shall be construed to bar any cause of action against a nonprofit organization, nonprofit corporation, or hospital or change the liability otherwise provided by law of a nonprofit organization, nonprofit corporation, or hospital arising out of an act or omission of a volunteer exempt from liability for negligence under this section.

(5) Notwithstanding the provisions of subsection (4) of this section, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; except that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances. However, nothing in this section shall be construed to limit the right of a plaintiff to recover from a policy of uninsured or underinsured motorist coverage available to the plaintiff as a result of a motor vehicle accident.

History

Source: L. 92: Entire section added, p. 278, § 1, effective July 1. L. 99: (3)(c) and (4)(a) amended, p. 399, § 1, effective April 22.

Annotations  
ANNOTATION

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The immunity granted pursuant to this section extends to an unlimited variety of volunteer activities and applies to injury claims by third parties, but protects only individual volunteers. In contrast, the immunity granted in § 13-21-116 extends only to volunteers who assist specifically with youth programs and sporting activities and does not apply to claims by third parties, but protects corporate as well as individual volunteers. *Jones v. Westernaires, Inc.*, 876 P.2d 50 (Colo. App. 1993), overruled in *Concerned Parents of Pueblo, Inc. v. Gilmore*, 42 P.3d 311 (Colo. 2002).